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10/803,684	03/18/2004	Janne La. Aaltonen	042933/273790	6181

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EXAMINER	
SHIU, HO T	

ART UNIT	PAPER NUMBER
2457	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/803,684	AALTONEN ET AL.	
	Examiner	Art Unit	
	HO SHIU	2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 February 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *23-58,60-80 and 82-123* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *23-58,60-80 and 82-123* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *03 March 2009*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 23-58, 60-80, and 82-123 are pending in this application. Claims 1-22, 59, and 81 have been cancelled and claims 23-58, 60-70, 72-80, 82-101have been amended and claims 102-123 have been added by amendment filed on 02/27/2009.

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/27/2009 has been entered.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim(s) 58-79 is/are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a

different state or thing. See page 10 of In Re Bilski 88 USPQ2d 1385. The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The method including steps of uploading content comprising receiving an upload request fro ma sender, wherein the upload request comprises a request to upload content from the sender to a recipient; determining, in response to the request, an upload schedule relating to at least one of the time or manner of the sender uploading the content to the recipient; and receiving the content uploaded from the sender in accordance with the upload schedule, wherein receiving an upload request, determining an upload schedule and receiving the content occur at the recipient is broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 23, 34-35, 45, 51-52, 58, 69-70, 80, 91-92, 102, and 113-114 are rejected under 35 U.S.C. 102(b) as being anticipated by Airy et al. (US Pub # 2002/0142780 A1, hereinafter Airy).**

7. With respect to claims 23, 58, 80, and 102, Airy discloses an apparatus system, method, computer program product comprising a processor and a memory storing executable instructions that in response to execution by the processor cause the apparatus to at least perform the following: sending an upload request to a recipient ([0010], lines 1-5), the upload request comprising a request to upload content from the apparatus to the recipient ([0010], lines 1-5); receiving, from the recipient in response to the upload request, an upload schedule relating to at least one of the time or manner of uploading the content ([0010], lines 11-15); and uploading the content to the recipient in accordance with the upload schedule.

8. With respect to claim 45, Airy discloses an apparatus system comprising a processor and a memory storing executable instructions that in response to execution by the processor cause the apparatus to at least perform the following: receiving a request to upload content from a sender to the apparatus ([0010], lines 1-5), determining, in response o the request, an upload schedule relating to at least one of the time or manner of the sender uploading the content to the apparatus; ([0010], lines 1-5); and receiving the content uploaded from the sender in accordance with the upload

schedule.

9. With respect to claims 34, 51, 69, 91 and 113, Airy discloses wherein the upload schedule includes at least one instruction based upon the content and at least one network over which the content is uploaded, and wherein uploading the content comprises uploading the content based upon the content and the at least one network ([0010], lines 8-11, 19-22).

10. With respect to claims 35, 52, 70, 92 and 114, Airy discloses wherein the upload schedule includes at least one instruction based upon at least one upload time of the content determined based upon the content and at least one network over which the content is uploaded, and wherein uploading the content comprises uploading the content based upon the at least one upload time (column 6, lines 33-40, lines 55-58).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12. **Claims 24, 29-30, 46, 64-65, 80, 86-87, 103, and 108-109 are rejected under 35 U.S.C. 103(a) as being unpatentable over Airy in view of Brown et al. (US PUB 2002/0194205 A1, hereinafter Brown).**

13. With respect to claims 24,and 103, Airy does not disclose deleting the content from the memory after uploading the content to the recipient.

In the same field of endeavor, Brown discloses deleting the content from the memory after uploading the content to the recipient. recipient ([0094], lines 2-5).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Airy with the teachings of Brown in order to have full authority/control over content that was meant to be accessed for a short period amount of time, for saving storage purposes, or other general purposes.

14. With respect to claims 25, 46, 60, 82 and 104, Airy does not clearly disclose receiving the state information before uploading the content, wherein uploading the content comprises uploading the content based upon the state information.

In the same field of endeavor, McDonnell discloses receiving the state information before uploading the content, wherein uploading the content comprises uploading the content based upon the state information (column 7, lines 45-50).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Airy with the teachings of McDonnell in order to be able to be able to upload the data to be split into a first minor

portion which is transmitted before the major portion is transmitted when the mobile device is in range.

15. With respect to claims 26, 61, 83, and 105, the claims are rejected as the same reasons as claims 25, 46, 60, 82 and 104 above. In addition, McDonnell discloses receiving state information comprises receiving state information including at least one of a connectivity, location, actual movement or predicted movement of at least one of the recipient or the apparatus (column 7, lines 45-50, column 8, lines 40-42).

16. With respect to claims 27, 47, 62, 84 and 106, Airy does not clearly disclose wherein the upload schedule includes at least one instruction based upon state information regarding at least one network over which the content is uploaded, and wherein the memory stores executable instructions that in response to execution by the processor cause the apparatus to further perform; receiving the state information before uploading the content, wherein uploading the content comprises uploading the content based upon the state information.

In the same field of endeavor, McDonnell discloses wherein the upload schedule includes at least one instruction based upon state information regarding at least one network over which the content is uploaded, and wherein the memory stores executable instructions that in response to execution by the processor cause the apparatus to further perform; receiving the state information before uploading the content, wherein

uploading the content comprises uploading the content based upon the state information (column 7, lines 39-41, lines 45-50).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Airy with the teachings of McDonnell in order to be able to be able to upload the data to be split into a first minor portion which is transmitted before the major portion is transmitted when the mobile device is in range.

17. With respect to claims 28, 63, 85 and 107, the claims are rejected as the same reasons as claims 27, 47, 62, 84 and 106 above. In addition, McDonnell discloses receiving the state information comprises receiving state information including at least one of traffic on the at least one network or bandwidth available to at least one of the recipient or the apparatus on the at least one network (column 7, lines 39-41, lines 45-50, column 6, lines 33-40).

18. With respect to claims 29, 48, 64, 86 and 108, Airy does not clearly disclose processing the content wherein uploading the content comprises uploading the processed content.

In the same field of endeavor, Brown discloses processing the content wherein uploading the content comprises uploading the processed content ([0099], lines 1-5, [0100], lines 4-7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Airy with the teachings of Brown in order to be able to transfer part of a document that has changed and not the whole entire document.

19. With respect to claims 30, 65, 87 and 109, the claims are rejected as the same reasons as claims 29, 48, 64, 86 and 108 above. In addition, Brown discloses wherein processing the content comprises at least one of transcoding or truncating at least a portion of the content ([0099], lines 1-5, [0100], lines 4-7).

20. **Claims 33, 37-42, 50, 53-56, 68, 72-77, 90, 84-99, 112, and 116-121 are rejected under 35 U.S.C. 103(a) as being unpatentable over Airy and in view of Kohno (US Pub 2003/0120802 A1, hereinafter Kohno).**

21. With respect to claims 33, 50, 68, 90 and 112, Airy does not disclose wherein the content includes a plurality of pieces, wherein the upload schedule includes at least one instruction comprising an ordering of the plurality of pieces of the content, and wherein uploading the content comprises uploading at least a portion of the content based upon the ordering of the plurality of pieces of the content.

However, in the same field of endeavor, Kohno discloses wherein the content includes a plurality of pieces, wherein the upload schedule includes at least one instruction comprising an ordering of the plurality of pieces of the content, and wherein

uploading the content comprises uploading at least a portion of the content based upon the ordering of the plurality of pieces of the content ([0114], lines 4-8, [0115], lines 1-7).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Airy with the teachings of Kohno in order for the transferring of data to be in sync with one another so that streaming of video, audio, or files of the same nature can be provided to the designated location without having to complexly re-configure the assortment of data received.

22. With respect to claims 37, 53, 72, 94 and 116, Airy does not disclose wherein the content comprises a plurality of data packets, and sending an upload request comprises sending an upload descriptor and thereafter uploading the content to thereby enable at least one of the apparatus or the recipient to determine if an interruption occurs in uploading the plurality of data packets, the recipient is configured to recover the content based upon the upload descriptor such that the recipient receives the plurality of data packets.

However, in the same field of endeavor, Kohno discloses wherein the content comprises a plurality of data packets, and sending an upload request comprises sending an upload descriptor and thereafter uploading the content to thereby enable at least one of the apparatus or the recipient to determine if an interruption occurs in uploading the plurality of data packets ([0069], lines 5-14, [0074], lines 1-3), the recipient is configured to recover the content based upon the upload descriptor such that the recipient receives the plurality of data packets ([0074], lines 1-15).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Airy with the teachings of Kohno in order for the designated recipient to acknowledge that files are missing during transfer due to known/unknown errors/interruptions and so that proper re-transfer of the missing files only will be transmitted again to save time, bandwidth, memory, cost, etc.

23. With respect to claims 38, 54, 73, 95, and 117, it is rejected for the same reasons as claims 37, 53, 72, 94 and 116 above. In addition, Kohno discloses wherein sending an upload descriptor and thereafter uploading the content enables the recipient to recover the content includes being configured to determine at least one remaining data packet to be uploaded to the recipient to thereby complete uploading of the plurality of data packets of the content, and thereafter instruct the sender to send the at least one remaining data packet, uploading the content including uploading the at least one remaining data packet such that the recipient reviews all of the content ([0074], lines 1-15).

24. With respect to claims 39, 55, 74, 96 and 118, Airy does not disclose wherein the content comprises a plurality of data packets, and wherein uploading the content comprises uploading the plurality of data packets and at least one information packet regarding at least one group of at least one data packet.

However, in the same field of endeavor, Kohno discloses wherein the content comprises a plurality of data packets, and wherein uploading the content comprises

uploading the plurality of data packets and at least one information packet regarding at least one group of at least one data packet. ([0069], lines 1-14).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Airy with the teachings of Kohno in order for the designated recipient to acknowledge that files are missing during transfer due to known/unknown errors/interruptions and so that proper re-transfer of the missing files only will be transmitted again to save time, bandwidth, memory, cost, etc.

25. With respect to claims 40, 56, 75, 97 and 119, the claims are rejected as the same reasons as claims 39, 55, 74, 96 and 118 above. In addition, Kohno discloses wherein uploading the plurality of data packets and the at least one packet enables the recipient to monitor the uploaded data packets to determine, based upon at least one information packet, in an interruption occurs in uploading the plurality of data packets such that the recipient receives less than the plurality of data packets of the content, and if an interruption occurs in uploading the plurality of data packets, to thereby enable the recipient to recover the content such that the recipient receives the plurality of data packets ([0074], lines 1-15).

26. With respect to claims 41, 57, 76, 98 and 120, Airy does not clearly disclose uploading the content enables at least one of the apparatus or the to determine if an interruption occurs in uploading the content such that the recipient only receives a portion of the content, and if an interruption occurs in uploading the content, executable

instructions stored by the memory cause the apparatus to further perform: receiving a length of the received portion of the content to thereby enable the sender to thereafter uploading a remaining portion of the content to thereby recover the content such that the recipient receives all of the content.

However, in the same field of endeavor, Kohno discloses uploading the content enables at least one of the apparatus or the to determine if an interruption occurs in uploading the content such that the recipient only receives a portion of the content, and if an interruption occurs in uploading the content, executable instructions stored by the memory cause the apparatus to further perform: receiving a length of the received portion of the content to thereby enable the sender to thereafter uploading a remaining portion of the content to thereby recover the content such that the recipient receives all of the content.

([0074], lines 1-15).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Airy with the teachings of Kohno in order for the designated recipient to acknowledge that files are missing during transfer due to known/unknown errors/interruptions and so that proper re-transfer of the missing files only will be transmitted again to save time, bandwidth, memory, cost, etc.

27. With respect to claims 42, 77, 99 and 121, the claims are rejected as the same reasons as claims 41, 57, 76, 98 and 120 above. In addition, Kohno discloses wherein uploading a remaining portion of the content comprise uploading a remaining portion of

the content based upon a bit range of the remaining portion of the content ([0074], lines 1-15, [0069], lines 5-8).

28. **Claims 32, 49, 67, 89 and 112 are rejected under 35 U.S.C. 103(a) as being unpatentable over Airy and in view of Squibbs et al. (US PUB 2004/0198426 A1, hereinafter Squibbs).**

29. With respect to claims 32, 49, 67, 89 and 112, Airy does not disclose wherein the upload schedule includes at least one instruction defining at least one deadline for uploading the content, and where uploading the content comprises uploading the content based upon the at least one deadline.

However, in the same field of endeavor, Squibbs discloses wherein the upload schedule includes at least one instruction defining at least one deadline for uploading the content, and where uploading the content comprises uploading the content based upon the at least one deadline ([0061], lines 10-17, [0063], lines 21-24).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Airy with the teachings of Squibbs in order to ensure if a file cannot be transferred, it will not prevent other files from transferring because of constant re-transferring of the same file and also to accommodate non-stationary users transferring files/content while moving from one location to another that incorporate the ability to let users transfer files as needed so

that the transfer of file/files will be transferred before the user moves out of the incorporated transfer area.

30. **Claims 36, 71, 93 and 115 are rejected under 35 U.S.C. 103(a) as being unpatentable over Airy and in view of Kobayashi et al. (WIPO # WO/2003/026216, hereinafter Kobayashi).**

31. With respect to claims 36, 71, 93 and 115, Airy does not disclose wherein the memory stores executable instructions that in response to execution by the process cause the apparatus to further perform: receiving a trigger to send an upload request wherein sending an upload request comprises sending an upload request in response to the trigger independent of interaction from a user of the apparatus.

However, in the same field of endeavor, Kobayashi discloses wherein the memory stores executable instructions that in response to execution by the process cause the apparatus to further perform: receiving a trigger to send an upload request wherein sending an upload request comprises sending an upload request in response to the trigger independent of interaction from a user of the apparatus ([0178], lines 1-6).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Airy with the teachings of Kobayashi in order to incorporate multiple files being transferred at a particular time and so that the client/user that is sending the file knows when is the best allotted time to

transfer the file.

32. **Claims 31, 66, 88 and 110 are rejected under 35 U.S.C. 103(a) as being unpatentable over Airy in view of Brown as applied to claims 23, 29, 58, 64, 80, 86, 102, and 108 and in further view of Kohno.**

33. With respect to claims 31, 66, 88 and 110, the claims are rejected as the same reasons as claims 23, 29, 58, 64, 80, 86, 102, and 108 above. Airy and Brown does not disclose the sender is configured to break up the upload content into a plurality of portions to thereby enable the sender to upload the portions of the upload content.

However, in the same field of endeavor, Kohno discloses the sender is configured to break up the upload content into a plurality of portions to thereby enable the sender to upload the portions of the upload content ([0068], lines 1-12).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Airy and Brown with the teachings of Kohno in order for performance on any machine/system/etc. not to suffer since a file is held in memory until the upload is complete which in sense a smaller file will require less memory at a given time.

34. **Claims 43, 44, 78, 79, 100, 101, 122, and 123 are rejected under 35 U.S.C. 103(a) as being unpatentable over Airy in view of Kohno and in further view of Anderson (US Pub 2003/2003/0084128 A1, hereinafter Anderson).**

35. With respect to claims 43, 78, 100 and 122, the claims are rejected for the same reasons as claims 23, 41, 58, 76, 80, 98, 102, and 120 above. The combination of Airy and Kohno does not disclose receiving a length of the received portion of the content comprises receiving a length of the received portion of the content in accordance with a hypertext transfer protocol (HTTP) HEAD technique.

However, in the same field of endeavor, Anderson discloses receiving a length of the received portion of the content comprises receiving a length of the received portion of the content in accordance with a hypertext transfer protocol (HTTP) HEAD technique ([0036], lines 9-13, HEAD method is identical to GET method except that the server must not return a message-body in the response).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Airy and Kohno with the teachings of Anderson in order to retrieve whatever information is identified by the request uniform resource identifier.

36. With respect to claims 44 79, 101, and 123, the claims is rejected for the same reasons as claims 23, 41, 58, 76, 80, 98, 102, and 120 above. In addition, Anderson discloses wherein uploading a remaining portion of the content comprises uploading a remaining portion of the content in accordance with one of a HTTP POST and a HTTP PUT technique, wherein the one of the HTTP POST and HTTP PUT technique includes uploading the remaining portion of the content including header information comprising

a bit range of the remaining portion of the content ([0036], lines 9-13, POST request identifies the resource that will handle the enclosed entity and PUT request identifies the entity enclosed with the request and must know what uniform resource identifier is intended and not attempt to apply the request to some other resource).

Response to Arguments

37. Applicant's arguments with respect to claims 23-123 have been considered but are moot in view of the new ground(s) of rejection.

38. Applicants on page 27 state that the examiner has not entered specific findings as to claim construction which led to applicants unable to effectively reply. The examiner has taken into consideration of applicant's request. The examiner notes that it is clear to one of ordinary skill in the art at the time the invention was made that the paragraphs the examiner has cited is sufficient on the basis alone to be able to understand how the cited matter reads on applicants claim. However, if the applicant is still unclear how the examiner's citing is unclear, the examiner asks the applicant to set up an interview so the examiner can explain how the prior art references read on applicant's claim.

Conclusion

39. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HO SHIU whose telephone number is (571)270-3810. The examiner can normally be reached on Mon-Thur (8:30am - 4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HTS
05/07/2009

/Ho Ting Shiu/
Examiner, Art Unit 2457

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